

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Third Periodic Review of the	)	MB Docket No. 07-91
Commission's Rules and Policies	)	
Affecting the Conversion	)	
To Digital Television	)	

To: Secretary, FCC

**COMMENTS**

Tri-State Public Teleplex, Inc. ("Tri-State"), by its attorneys, provides these comments in response to the *Notice of Proposed Rulemaking* in the referenced docket, FCC 07-70 (released May 18, 2007) ("*NPRM*").

Tri-State applauds the FCC's determination to have a strong DTV system in place across the country on the February 17, 2009 digital transition deadline, and it fully supports that goal. However, Tri-State urges the FCC to exercise its discretion under the law establishing the transition deadline to provide substantially more flexibility to stations regarding the process and timing of achieving their "ultimate" or "final" DTV transmission facilities.

Specifically, with respect to WNIN-DT, Tri-State urges the FCC to establish rules that permit it to seek modified and somewhat expanded facilities for its permanent DTV channel (currently WNIN(TV)'s analog channel) as compared to what has been adopted in the DTV Table of Allotments so that, at such time as Tri-State is able to build out facilities on its permanent channel prior to the transition

deadline, it can actually construct facilities that will permit it to replicate its analog service.

## **BACKGROUND**

Tri-State is a non-profit 501(c)(3) organization and the licensee of noncommercial educational station WNIN (TV), Channel \*9, and WNIN-DT, Channel \*12, in Evansville, Indiana. Tri-State is the PBS member station in Evansville, broadcasting a wide variety of high-quality news, public affairs, informational, educational and entertainment programming, including children's programming, to the area around Evansville, much of which is rural and depends on over-the-air reception of television signals.

Tri-State was originally allotted out-of-core Channel \*54 as its pre-transition digital channel. At Tri-State's request, the FCC modified the allotment to specify Channel \*12 for WNIN-DT pre-transition, although the allotment necessitated the use of a fairly restrictive directional antenna pattern. WNIN-DT is currently licensed and operating on Channel \*12 with an antenna side-mounted on the WNIN (TV) tower with ERP of 30 kW at 285 m HAAT.

These facilities do not replicate WNIN analog service population. Perhaps more importantly, these facilities provide Evansville, WNIN-DT's city of license, with a greatly diminished signal strength. Many new digital television owners have complained to Tri-State that they cannot receive WNIN-DT's signal over the air,

forcing them to choose between purchasing cable or foregoing the ability to view the station.

It was always Tri-State's intention ultimately to return to its analog Channel \*9 as its permanent digital channel. It sought the allocation of DTV Channel \*9 in the January, 2005 First Round of the FCC's digital channel election process. That election was approved by the FCC but, because of the limited certification options available to Tri-State in connection with its pre-election certification, the Table of DTV Allotments specifies facilities for WNIN-DT on Channel \*9 that are based on the minimal coverage facilities Tri-State is licensed to use on its interim Channel \*12 -- 30 kW at 285 m HAAT, utilizing the same directional antenna pattern.

Tri-State has determined that it could operate Channel \*9 with lower power utilizing its existing Channel \*9 transmitter and antenna, thereby saving considerable funds and achieving replication of WNIN(TV) coverage.

## **COMMENTS**

### **I. The FCC should be flexible in the process for and timing of construction of final DTV facilities.**

Tri-State strongly urges the FCC to exercise its discretion under the law establishing the February 17, 2009 digital transition deadline by providing substantial flexibility to stations regarding the process for and timing of their achieving their "ultimate" or "final" DTV transmission facilities. In the case of WNIN-DT, Tri-State intends to have moved its DTV operations from Channel \*12 to Channel \*9 prior to the February 17, 2009 deadline established by the Digital

Television and Public Safety Act of 2005, Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006).

However, as noted by the attached engineering statement of Tri-State's consulting engineer, John F. X. Browne, Tri-State can construct and operate its permanent DTV facilities on Channel \*9 using the existing WNIN(TV) transmitter and antenna (which places HAAT at 304 m), with ERP of 14 kW, consistent with all interference considerations. This would replicate WNIN(TV)'s coverage, simplify the transition process, and considerably lower Tri-State's transition costs.

It simply makes no sense in these circumstances for Tri-State, as of the transition deadline, to re-build WNIN-DT facilities on Channel \*9 with the current transmitter and directional antenna now used for Channel \*12, only to have to re-build those facilities later with the existing Channel \*9 equipment can be used now at a power level achieving replication without causing interference to any other station.

For all these reasons, Tri-State urges the FCC to be as flexible as the law allows, focusing on identifying and addressing ways to facilitate a smooth transition in February of 2009, and facilitating each station's own path and timing in achieving its final DTV facilities, including, as appropriate, the opportunity to upgrade DTV facilities prior to the deadline.

**II. The FCC should not require stations to construct facilities that precisely match the facilities specified in the Table of DTV Allotments.**

In paragraph 67 of the *NPRM*, the FCC suggests that stations are to have constructed and licensed DTV facilities matching the facilities specified in the DTV Table of Allotments by the transition deadline.

As noted above, Tri-State urges that, in appropriate cases, stations be permitted to adjust their facilities and coverage, compared to what is now specified in the DTV Table, prior to the deadline, so that they only have to construct their permanent facilities once – not once by building what’s specified in the DTV Table now, and a second time after the transition deadline.

### **CONCLUSION**

Tri-State urges the FCC to adopt flexible rules consistent with the comments above.

Respectfully submitted,

**TRI-STATE PUBLIC TELEPLEX, INC.**

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